

PUEBLO OF ACOMA LAWS 2003 (2010 REPLACEMENT)

**TITLE 16
THE PUEBLO OF ACOMA HOUSING AUTHORITY**

This Replacement includes laws enacted since the Pueblo of Acoma Laws 2003 pursuant to Tribal Council Resolutions dated January 1, 2009 through December 31, 2009.

PUEBLO OF ACOMA LAWS 2003 (2010 REPLACEMENT)

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These laws may be cited by Title, Chapter, Section and Year
as "Section or § _-_- Pueblo of Acoma Laws 2003 (2010 Replacement)"

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TITLE 16
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PUEBLO OF ACOMA LAWS 2003 (2010 Replacement)

TITLE 16
THE PUEBLO OF ACOMA HOUSING AUTHORITY

Chapter 1. ESTABLISHMENT AND PURPOSE

16-1-1 Establishment. Pursuant to the authority vested in the Pueblo of Acoma Tribal Council, the traditional governing body of the Pueblo of Acoma, including its authority to provide for the health, safety, morals and welfare, the Tribal Council of the Pueblo of Acoma (“Council”) hereby establishes a public body known as the Pueblo of Acoma Housing Authority (hereinafter referred to as the “Authority”), and sets out the purpose, powers and duties of the Authority.

Origins: This Title was initially adopted by Tribal Council Resolution on March 24, 1969 and amended by Tribal Council Resolution on February 23, 1977 for the purpose of establishing the All Indian Pueblo Housing Authority (Designated as Ordinance FE-23-77HA (AIPHA 4). The Tribal Council by Tribal Resolution No. TC-JUL-31-96-2 amended this Title to establish the Pueblo of Acoma Housing Authority separate from the All Indian Pueblo Housing Authority. That Tribal Council Resolution states in part:

NOW THEREFORE, BE IT RESOLVED:

Section No. 1 The Acoma Tribal Council amends and adopts the current Ordinance FE-23-77HA (AIPHA 4) which joins in establishing a public body known as the All Indian Pueblo Housing Authority as an interim measure and thereby creates it's Pueblo of Acoma Housing Authority.

Section No. 2 Wherein under the paragraph titled TRIBAL ORDINANCE of the current ordinance establishing the All Indian Pueblo Housing Authority, the first paragraph is deleted and the following paragraph is inserted:

Pursuant to the authority vested in the Pueblo of Acoma Council, the traditional governing body of the Pueblo of Acoma, including its authority to provide for the health, safety, morals and welfare, the Council of the Pueblo of Acoma (“Council”) hereby establishes a public body known as the Pueblo of Acoma Housing Authority (hereinafter referred to as the Authority), and enacts this ordinance which shall establish the purpose, powers and duties of the Authority.

Section No. 3 Whereas under ARTICLE IV, BOARD OF COMMISSIONERS, of the current Ordinance, wording of Section 1.(a)(1) is deleted and in its place the following is inserted:

The affairs of the Authority shall be managed by a Board of Commissioners composed of 5 persons; in addition one member of the Tribal Council and one member of the Tribal Administration shall serve as ex-officio members; and

Section No. 4 The Pueblo of Acoma Housing Authority, be and is hereby established pursuant to the previously adopted Ordinance No. FE-23-77HA (AIPHA 4) with modifications as enumerated and is now authorized to transact business and exercise its functions in accordance with said ordinance; and

Section No. 5 The Pueblo of Acoma Tribal Council reserves the right to modify or amend the Ordinance in part or in whole.

Section No. 6 The Acoma Tribal Council authorizes the Tribal Administration to expedite necessary procedures to implement the Housing Authority.

BE IT FURTHER RESOLVED THAT:

Section No. 1 Upon the transfer of Housing Authority functions from the All Indian Pueblo Housing Authority, the Acoma Tribal Council chooses to perform a deed conveyance on its housing units and seeks the support of the Department of Housing and Urban Development.

16-1-2 Purposes.

A. Declaration of Need. It is hereby declared:

1. That there exists within the area of the jurisdiction of the Pueblo unsanitary, unsafe and overcrowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which Persons of low income can afford; and that such shortage forces such persons to occupy insanitary, unsafe and overcrowded dwelling accommodations;

2. That these conditions cause an increase in, and spread of, disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;
3. That the shortage of decent, safe and sanitary dwellings for Persons of low income cannot be relieved through the operation of private enterprise;
4. That the providing of decent, safe and sanitary dwelling accommodations for Persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of concern to this Council;
5. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this Title to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment; and
6. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

B. Purposes. The Acoma Tribal Council recognizes the need and importance of providing direct services to the community in an efficient and manageable manner consistent with the internal management and fiscal accounting functions of the Pueblo; and the Acoma Tribal Council has recognized the unmet Housing needs of its tribal population and the eventuality of changes that would affect housing services provided by the federal government through the Department of Housing and Urban Development. The Acoma Tribal Council concludes that it is in the best interests of the Pueblo of Acoma to establish a separate housing authority for the Pueblo of Acoma. The Authority is created for the purposes of:

1. Remediating unsafe and unsanitary housing conditions that are injurious to the public health, safety and morals;

2. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and
3. Providing employment opportunities through the construction, reconstruction, improvement, extensions, alteration or repair and operation of low income dwellings.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

Chapter 2. DEFINITIONS

16-2-1 Definitions. The following terms, wherever used or referred to in this Title shall have the following respective meanings, unless a different meaning clearly appears from the context.

- A. “Area of operation” means all areas within the jurisdiction of the Pueblo.
- B. “Board” means the Board of Commissioners of the Authority.
- C. “Council” means the Acoma Pueblo Tribal Council.
- D. “Federal government” means the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.
- E. “Homebuyer” means a person(s) who has executed a lease-purchase agreement with the Authority and who has not yet achieved home ownership.
- F. “Housing project” or “project” means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to rental; sale of individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements; loans, or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for Persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare or other purposes. The term “Housing project” or “project” also may be

applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction,, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connections therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the Housing project.

- G. "Obligations" means any notes, bonds, interim certificates, debentures, or other forms of obligations issued by the Authority pursuant to this Title.
- H. "Obligee" means any holder of an Obligation, agent or trustee for any holder of an Obligation, or lessor demising to the Authority property used in connection with a project or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the Authority in respect to a Housing project.
- I. "Persons of low income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

Annotation: The 2010 Replacement reformats the numbering for Chapter 2 from "16-2-0" to "16-2-1."

Chapter 3. THE BOARD OF COMMISSIONERS

16-3-1 Composition of Board. The affairs of the Authority shall be managed by a Board of Commissioners composed of five (5) persons; in addition one member of the Tribal Council and one member of the Tribal Administration shall serve as ex-officio members.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003. The Tribal Council by Tribal Resolution No. TC-JUL-31-96-2 amended this section to establish a different composition of the Board from that of the AIPHA.

16-3-2 Board Membership.

- A. Appointment by Council. The Board members shall be appointed, and may be reappointed, by the Tribal Council. A certificate of the

Secretary of the Tribal Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.

- B. Pueblo Membership not required. A commissioner may be a member or non-member of the Pueblo, and may be a member or non-member of the Tribal Council.
- C. Tenants and Homebuyers as Commissioners. No person shall be barred from serving on the Board because he is a tenant or Homebuyer in a Housing project of the Authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or Homebuyers, even though such matters affect him as well. However, no such commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or Homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his individual rights, Obligations or status as a tenant or Homebuyer.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

- 16-3-3 Board Officers. The Board shall elect one of the Commissioners as Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and Vice-Chairman, the Secretary shall preside.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

- 16-3-4 Removal. A member of the Board may be removed by the Tribal Council for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the Tribal Council and only after the member has been given a written notice of the specific charges against him at least ten (10) days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf;. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the Tribal Council and a copy thereof sent to the appropriate office of the Department of Housing and Urban Development.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-3-5 Commissioner Stipends. The Commissioners shall receive stipends for their meetings and shall be entitled per diem for expenses incurred while on travel status.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003. This section was amended by Tribal Council Resolution No. TC-MAR-25-98-12 to permit the payment of stipends to Commissioners. Recognized again in TC-OCT-30-02-VC.

Annotation: Tribal Council Resolution No. TC-OCT-30-02-VC set stipend at \$125.00 per meeting.

16-3-6 Quorum. A majority of the full Board (i.e. notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of such full Board.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-3-7 Meetings. The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board. Meetings of the Board shall be held at regular intervals as provided in the bylaws. Emergency meetings may be held upon twenty-four (24) hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-3-8 Financial Records. The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Council as required by Section 16-6-1 of this Title.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

Chapter 4. POWERS OF AUTHORITY

16-4-1 Corporate Name. The Authority shall have perpetual succession in its corporate name.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-4-2 Consent to Suit.

- A. The Pueblo of Acoma Housing Authority is the tribally designated housing entity created by the Pueblo, and as such shares the Pueblo's immunity from suit which can only be waived by the Tribal Council.

- B. The Pueblo of Acoma Housing Authority is granted the power to sue and be sued, thereby waiving the sovereign immunity of the Pueblo for Pueblo of Acoma Housing Authority subject to the following conditions:
 - 1. This waiver of immunity only applies to actions brought against the Pueblo of Acoma Housing Authority upon any written contract or other Obligation to pay money arising directly out of its activities pursuant to this Title, or any counterclaim raising such claims brought against the Pueblo of Acoma Housing Authority by a housing participant in a lawsuit filed by the Pueblo of Acoma Housing Authority.
 - 2. This waiver only applies to claims for monies and other assets of personal property of the Pueblo of Acoma Housing Authority. It does not extend to create any liability on behalf of the Pueblo or any other of its entities for the debts or Obligations of the Pueblo of Acoma Housing Authority.
 - 3. Any lawsuit must be brought in the Pueblo of Acoma Tribal Court.

- C. The Pueblo of Acoma Housing Authority, is hereby granted the authority to waive immunity from suit, subject to the approval of the Governor, consistent with the provisions of this section.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003. This section was amended in whole by Tribal Council Resolution No. TC-AUG-30-00-2.

Annotation: Tribal Council Resolution No. TC-AUG-30-00-2 clarified that the Pueblo of Acoma Housing Authority ("PAHA") is the tribally designated housing authority created by the Pueblo, and that only the Tribal Council has the power to waive tribal sovereign immunity on behalf of PAHA. Accordingly, this resolution provided conditions for the waiver of the tribe's sovereign immunity for PAHA.

16-4-3

Specific Authorizations. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

- A. To adopt and use a corporate seal.

- B. To enter into contracts or other agreements under the following circumstances:
1. Subject to the approval of the Governor, or, at the Governor's discretion, the Tribal Council, the Pueblo of Acoma Housing Authority may enter into agreements, contracts and understandings, with any governmental agency, federal, state, tribal or local, and may agree to any conditions attached to Federal financial assistance.
 2. Except for agreements with housing participants which do not require the approval of any entity other than the Pueblo of Acoma Housing Authority, the Pueblo of Acoma Housing Authority, subject to all other applicable laws of the Pueblo of Acoma, may enter into agreements with any person, partnership, corporation or other private entity to perform the responsibilities given to the Pueblo of Acoma Housing Authority in this Title.
 3. For the purposes of this Title, "housing participant" means any person who enters into an agreement with the Pueblo of Acoma Housing Authority to rent, lease, or otherwise acquire a home.
- C. To agree, notwithstanding anything to the contrary contained in this Title or in any other provision of law to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or compliance with labor standards in the development or operation of projects; and the Authority may include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid to the project.

Annotation: Cross reference Title 2 for Pueblo of Acoma Prevailing Wage Law.

- D. To obligate itself, in any contract with the federal government for annual contributions to the Authority, to convey to the federal government possession of, or title to, the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the federal government may

complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract: Provided, that the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the Authority the project as then constituted.

- E. To lease property from the Pueblo and others for such periods as are authorized by law, and to hold and manage or to sublease the same.
- F. To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of, section 16-5-1 of this Title.
- G. To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.
- H. To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.
- I. Subject to the approval of the Tribal Council, to purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by the law.
- J. To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvements, extensions, alteration or repair of any project or any part thereof.
- K. With respect to any dwellings, accommodations, leasehold interests, buildings, or facilities that are part of a Pueblo of Acoma Housing Authority project, to lease, rent, acquire or sell leaseholds, enter into agreements with the option to purchase leaseholds, to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or Homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this Title.

- L. To finance purchase of a home by an eligible Homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development.
- M. To terminate any lease or rental agreement or lease-purchase agreement when the tenant or Homebuyer has violated the terms of such agreement, or failed to meet any of its Obligations thereunder; or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or Homebuyer.
- N. To establish income limits for admission that insure that dwelling accommodations in a Housing project shall be made available only to Persons of low income.
- O. To purchase insurance from any stock or mutual company for any property or against any risk or hazards.
- P. To invest such funds as are not required for immediate disbursement.
- Q. To establish and maintain such bank accounts as may be necessary or convenient.
- R. To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require, and to delegate to such officers and employees such powers or duties as the Board shall deem proper.
- S. To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.
- T. To adopt such bylaws as the Board deems necessary and appropriate.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003. Tribal Council Resolution No. TC-AUG-30-00-2 amended subsections (B), (I), (K), and (T).

Annotation: Tribal Council Resolution No. TC-AUG-30-00-2 amended and restated subsections (B), (I), (K), and (T). Subsection B, as adopted by TC-AUG-30-00-2, contained a heading "Authority to Contract". However, to maintain formatting consistency, the heading was deleted from this Pueblo of Acoma Laws 2003. The substance of former

subsection B is now contained in new subsection B(1). The language for B(2) and B(3) are also new. Subsection C, as adopted by TC-AUG-30-00-2, now states that the subsection is subject to the approval of Tribal Council. Prior version did not clarify this condition. Subsection K, as adopted by TC-AUG-30-00-2, modifies and clarifies prior language concerning PAHA powers with respect to leasehold interests. Prior subsection T has been deleted by TC-AUG-30-00-2 because the scope of prior subsection T is now covered in subsection B. The Pueblo of Acoma Laws 2003 renames prior subsection U as subsection T.

16-4-4 Necessary or Proper. It is the purpose and intent of this Title to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-4-5 Compliance with Tribal Law. In the absence of a conflict with a specific law applicable to the Pueblo of Acoma Housing Authority, the Pueblo of Acoma Housing Authority shall comply with the laws and regulations of the Pueblo, including, but not limited to procurement requirements, and the personnel policies of the Pueblo. Compliance with the Pueblo of Acoma procurement and personnel requirements can be established through a Memorandum of Agreement between the Pueblo of Acoma Housing Authority and the Pueblo.

Origins: See Origins at 16-1-1 Pueblo of Acoma Laws. The previous language for this section was deleted and replaced with the current section pursuant to Tribal Council Resolution No. TC-AUG-30-00-2.

Annotation: Tribal Council Resolution No. TC-AUG-30-00-2 deleted prior section headed "Preemption". That prior language stated that no other written law of the Pueblo, with respect to the acquisition, operation, or disposition of tribal property shall be applicable to PAHA. Tribal Council Resolution No. TC-AUG-30-00-2 amends that language and states that the Pueblo's procurement and personnel requirements shall apply to PAHA in the absence of a specified law to the contrary.

Chapter 5. OBLIGATIONS

16-5-1 Authority to Issue. The Authority may issue Obligations from time to time in its discretion for any of its purposes and may also issue refunding Obligations for the purpose of paying or retiring Obligations previously issued by it. The Authority may issue such types of Obligations as it may determine, including Obligations on which the principal and interest are payable:

- A. Exclusively from the income and revenues of the project financed with the proceeds of such Obligations, or with such income or revenues together with a grant from the federal government in aid of such project;
- B. Exclusively from the income and revenues of certain designated project whether or not they were financed in whole or in part with the proceeds of such Obligations; or
- C. From its revenues generally.

Any of such Obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-5-2 Limited Liability.

- A. Neither the commissioners or the Authority nor any person executing the Obligations shall be liable personally on the Obligations by reason of issuance thereof.
- B. The notes and other Obligations of the Authority shall not be a debt of the Pueblo and the Obligations shall so state on their face.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-5-3 Authority Status relative to Obligations. Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereof and income therefrom, shall be exempt from taxes imposed by the Pueblo. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of Obligations and shall constitute, by virtues of this Title, and without necessity of being restated in the Obligations, a contract between (a) the Authority and the Pueblo, and (b) the holders of Obligations and each of them, including all transferees of the Obligations from time to time.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-5-4 Issuance of Obligations. Obligations shall be issued and sold in the following manner:

- A. Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.
- B. The Obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such manner; of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.
- C. The Obligations may be sold at public or private sale at not less than par.
- D. In case any of the commissioners of the Authority whose signatures appear on any Obligations cease to be commissioners before the delivery of such Obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-5-5 Negotiability of Obligations. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any Obligations of the Authority or the security thereof, any such Obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such Obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this Title.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-5-6 Permissible Security. In connection with the issuance of Obligations or incurring Obligations under leases and to secure the payment of such Obligations, the Authority, subject to the limitations in this Title, may:

- A. Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.
- B. Provide for the powers and duties of Obligees and limit their liabilities; and provide the terms and conditions on which such Obligees may

enforce any covenants or rights securing or relating to the Obligations.

- C. Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenue or property.
- D. Covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any project or any part thereof.
- E. Covenant as to what other or additional debts may be incurred by it.
- F. Covenant as to the Obligations to be issued, and as to the issuance of such Obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.
- G. Provide for the replacement of lost, destroyed or mutilated Obligations.
- H. Covenant against extending the time for the payment of its Obligations or interest thereon.
- I. Redeem the Obligations and covenant for their redemption and provide the terms and conditions thereof.
- J. Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.
- K. Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds.
- L. Prescribe the procedure, if any, by which the terms of any contract with holders of Obligations may be amended or abrogated, the proportion of outstanding Obligations the holders of which must consent thereto, and the manner in which such consent may be given.
- M. Covenant as to the use, maintenance and replacement of its real or person property, the insurance to be carried thereon and the use and disposition of insurance monies.
- N. Covenant as to the rights, liabilities, powers and duties arising upon

the breach by it of any covenant, condition or Obligation.

- O. Covenant and prescribe as to events of default and terms and conditions upon which any or all of its Obligations become, or may be declared, due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- P. Vest in any Obligees or any proportion of them the right to enforce the payment of the Obligations or any covenants securing or relating to the Obligations.
- Q. Exercise all or any part or combination of the powers granted in this section.
- R. Make covenants other than, and in addition to, the covenants expressly authorized in this section, of like or different character.
- S. Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its Obligations, or, in the absolute discretion of the Authority, tending to make the Obligations more marketable although the covenants, acts or things are not enumerated in this section.

Origins: See Origins of Section 16-1-1.

Chapter 6. MISCELLANEOUS OTHER MATTERS

16-6-1 Annual Report to Council. The Authority shall submit an annual report, signed by the Chairman of the Board, to the Tribal Council showing:

- A. A summary of the year's activities;
- B. The financial condition of the Authority;
- C. The condition of the properties;
- D. The number of units and vacancies;
- E. Any significant problems and accomplishments;
- F. Plans for the future; and
- G. Such other information as the Authority or the Council shall deem pertinent.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-6-2 Conflict of Interest Provisions.

- A. Voluntary acquisitions. During his tenure and for one (1) year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Pueblo, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest.
- B. Involuntary acquisitions. If any commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest.
- C. Violation. Any violation of the foregoing provisions of this section shall constitute misconduct in office.
- D. Exceptions. This section shall not be applicable to the acquisition of any interest in Obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency or to membership on the Board as provided in Section 16-3-5.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-6-3 Compliance with Federal Law. Each project developed or operated under a contract providing for federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable

federal legislation, and with all regulations and requirements prescribed from time to time by the federal government in connection with such assistance.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-6-4 Bonding of Officers, Agents, and Employees. The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage for its officers, agents. Or employees handling cash or authorized to sign checks or certify vouchers.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-6-5 Authority Is Non-Profit. The Authority shall not construct or operate any project for profit.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-6-6 Tribal Tax Exemption. The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Pueblo.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-6-7 Exemption from Execution. All property including funds acquired or held by the Authority pursuant to this Title shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon property. However, the provisions of this section shall not apply to or limit the right of Obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues, or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this Title or the right of the Authority to bring eviction actions in accordance with Section 16-4-3(M) of this Title.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

Chapter 7. COOPERATION IN CONNECTION WITH PROJECTS

16-7-1 Exemption from Tribal Taxes; Enforcement of Contracts. For the purpose of aiding and cooperating in the planning, undertaking, construction or

operation of projects, the Pueblo hereby agrees that:

- A. It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.
- B. It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Pueblo furnishes from time to time without cost or charge to other dwellings and inhabitants.
- C. Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Pueblo as are reasonable and necessary to promote economy and efficiency in the development and operation of any project and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.
- D. It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.
- E. The Pueblo hereby declares that the powers of the Pueblo government shall be vigorously utilized to enforce eviction of a tenant or Homebuyer for nonpayment or other contract violations including action through the appropriate courts.
- F. The Acoma Pueblo Tribal Court shall have jurisdiction to hear and determine an action for eviction of a tenant or Homebuyer. The tribal government hereby declares that the powers of said Court shall be vigorously utilized and the tribal government will cooperate to the fullest extent possible to enforce eviction of a tenant or Homebuyer for nonpayment or other contract violations.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-7-2

Consent of Department of Housing and Urban Development. The provisions of Section 1-12-8 shall remain in effect with respect to any project, and said provisions shall not be abrogated, changed or modified without the consent of the Department of Housing and Urban Development, so long as:

- A. The project is owned by a public body or governmental agency and is used for low income housing purposes;

- B. Any contract between the Authority and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect; or,
- C. Any Obligations issued in connection with such project or any monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-7-3 Benefit to Governmental Agency. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing, including the federal government, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

16-7-4 Secretarial Approval Requirements. With respect to any financial assistance contract between the Authority and the federal government, the Authority must obtain the approval of the Secretary of the Interior or his designee.

Origins: See Origins at Section 16-1-1 Pueblo of Acoma Laws 2003.

Chapter 8. PUEBLO OF ACOMA PREVAILING WAGE LAW (Repealed effective October 22, 2009)

Origins: Adopted in 2003 by Tribal Council Resolution No. TC-DEC-3-03-VE, repealed by implication and superseded by Tribal Council Resolution No. TC-OCT-22-09-VIc.

Annotation 1: The 2003 Prevailing Wage Law applied to all development projects funded in whole or in part, by the U.S. Department of Housing and Urban Development. The 2009 Prevailing Wage Law expands this scope to all development projects funded by any state or federal monies. The 2009 Prevailing Wage Law may now be found in Title 2 of the Pueblo of Acoma Laws.

Annotation 2: The 2009 Prevailing Wage Law is consistent with Section 16-4-3 (c), Pueblo of Acoma Laws 2003.

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